

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Mack Wells,

Plaintiff,

vs.

Sgt. Taylor,

Defendant.

Civil Action No. 6:09-1813-DCN-WMC

**REPORT OF MAGISTRATE JUDGE**

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On October 1, 2009, the defendant filed a motion for summary judgment. On October 5, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment dismissal procedure and the possible consequences if he failed to respond. When no response was filed, the court entered an order on November 19, 2009, giving the plaintiff through December 14, 2009, to respond. The order was mailed to the plaintiff's last known address (Turbeville Correctional Institute, EA118, P.O. Box 252, Turbeville, SC 29162). The envelope containing this order was returned to the court marked "RTS Unclaimed," as the plaintiff is apparently no longer incarcerated at Turbeville Correctional Institution. The order was remailed to Turbeville Correctional Institution on December 10, 2009, but the court has received no response from the plaintiff. A search of the Department of Corrections' database provided no information as to the plaintiff's location.

The record reveals that the plaintiff was advised by order dated July 24, 2009, of his responsibility to notify the court *in writing* if his address changed.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution.

December 21, 2009  
Greenville, South Carolina

s/William M. Catoe  
United States Magistrate Judge